

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TEEN MODEL (a minor), by her parents, PARENTS,

Plaintiffs,

-v-

BLOOD IS THE NEW BLACK, URBAN
OUTFITTERS, INC., and BRANDY & MELVILLE
N.Y. INC.,

Defendants.

ORDER

11 CV 5766 (GBD)

GEORGE B. DANIELS, District Judge:

Defendant Urban Outfitters, Inc. moves to dismiss plaintiff's amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). Urban Outfitters argues that plaintiff's complaint fails to sufficiently state a claim against Urban Outfitters under the Lanham Act. Urban Outfitters also contends that plaintiff has failed to allege claims against Urban Outfitters under the New York Civil Rights Law¹ and for common law libel.

Accepting the allegations set forth in the amended complaint as true, plaintiff has sufficiently alleged a cause of action against Urban Outfitters for use of her image to create false endorsement or false designation of origin, as well as a claim for false representation of the characteristics or qualities of plaintiff's modeling services, in violation of Section 43(a) of the Lanham Act. Additionally, plaintiff sufficiently alleged that Urban Outfitters used plaintiff's image in violation of the New York


¹Urban Outfitters also argues that plaintiff is not entitled to seek punitive damages because "Urban Outfitters had no knowledge of Teen Model's lack of consent" as required under the New York Civil Rights Law. Urban Outfitters Memorandum in Support of Motion to Dismiss 15. Plaintiff has, however, sufficiently alleged that Urban Outfitters had knowledge of plaintiff's lack of consent. *See* Am. Cmpl. 285, 322. Plaintiff is therefore not precluded from seeking punitive damages at this juncture.

Civil Rights Law. Lastly, Plaintiff has sufficiently set forth a cause of action in common law libel against Urban Outfitters.

Urban Outfitters' motion to dismiss plaintiff's amended complaint is DENIED.

Dated: New York, New York
March 5, 2012

SO ORDERED:



GEORGE B. DANIELS
United States District Judge